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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,289	11/16/1999	ANDREW E. SUHY	1-21739	4128

10291 7590 05/21/2002

RADER, FISHMAN & GRAUER PLLC  
39533 WOODWARD AVENUE  
SUITE 140  
BLOOMFIELD HILLS, MI 48304-0610

EXAMINER

HEWITT II, CALVIN L

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 05/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

502

# Office Action Summary

Application No.

09/441,289

Applicant(s)

SUHY ET AL.

Examiner

Calvin L Hewitt II

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16 and 21-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Status of Claims***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/21/01 has been entered.

2. Claims 16 and 21-48 have been examined

***Response to Arguments***

3. Applicant's arguments with respect to claim 16 and 21-48 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16 and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al., U.S. Patent No. 6,141,629 in view of Beverage World "New lease on truck life: Automated maintenance" by Bob Deierlein and Business Week "The Great Equalizer" by Ira Sager.

As per claim 16 and 43-47, Yamamoto et al. teach transmitting data to an administrative controller (figures 10-12) that manages and controls maintenance information on all construction machines (column 9, lines 5-18) and determining when service should be performed based on the amount of usage (column 2, lines 1-13). Yamamoto does not explicitly recite warranties. Ryder Commercial Services and Leasing, however, has developed an automated vehicle maintenance service comprising comparing the indication of the amount of usage of the asset with a predetermined standard that is representative of the warranty period ("New lease...", page 2, lines 10-15), transmitting asset usage data to a central controller using a hand-held device ("New lease...", page 1, lines 22-37),. Both systems recite transmitting maintenance data to a computer after maintenance is performed ('629, column 11, lines 16-24; "New lease...", page 1, lines 45-50). Ryder also teaches entities that perform service on an asset where the entity is not the owner, and/or doesn't operate the asset ("The Great

Equalizer", page 1, lines 5-10). Regarding generating a warranty report, Ryder uses the collected asset usage data to negotiate longer warranties from suppliers ("The Great Equalizer", page 1, lines 10-15). Hence, it would have been obvious to create a report in order to present the data to Ryder decision makers and stakeholders (e.g. warranty report generated for a second entity on behalf of a first). Similarly, it would have been obvious to include the amount of usage of an asset (e.g. odometer) at the time of failure or maintenance to support their claim. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Yamamoto et al. and Ryder in order to reduce time lost due to capital equipment failures and part procurement.

As per claim 48, it would have been obvious to repair an asset without referring to a warranty if the communication system was down and the maintenance data could not be obtained instantly.

6. Claims 21-24, 27-35 and 38-42 rejected under 35 U.S.C. 103(a) as being

unpatentable over Yamamota et al., U.S. Patent No. 6,141,629 <sup>in view of Bazilai et al.</sup>  
US PAT. 6,012,005

As per claims 21-24, 27-35 and 38-42, Yamamota et al. teach:

- a local controller at a first location that acquires data regarding operating characteristics of an asset (figure 12; column 4, lines 30-50)

- a data acquisition device (column 4, lines 20-29)
- a transmitter (figure 12; column 4, lines 45-50)
- a second controller at an alternative location for data analysis, in particular to determine whether maintenance to an asset has taken place (figure 12, item 20; column 4, lines 44-50; column 9, lines 18-23; column 11, lines 17-23; column 11, lines 49-55; column 12, lines 54-57)
- an electronic communications network between the local controller and second controller (figure 12; column 4, lines 44-50)
- wireless communication between transmitter and receiver (figure 12, items A-I; column 8, lines 51-61)
- an administrative controller that receives data from the second controller (figure 12; column 9, lines 5-18)
- a global communications network that links the second controller and administrative controller (figure 12; column 9, lines 18-23)
- automatic determination as to whether maintenance has been performed on an asset (column 13, lines 4-12)
- a plurality of administrative controllers (figure 12, items 50-60; column 9, lines 5-23)

Yamamoto et al. do not teach automatic determination of whether or not maintenance has been performed at the analysis controller or systematic collation of data to obtain warranty data. Barzilai et al. teach an internet site for obtaining warranty information. In particular, Barzilai et al. use the internet to automatically provide users with suppliers and manufacturers for products and services and identifies the company who will fulfill and correct any warranty problem and its location (column/line 8/49-9/35). Therefore, it would have been obvious for one of ordinary skill in the art to combine the teachings of Yamamoto et al. and Barzilai et al. Regarding the analysis controller, it would have been obvious to one of ordinary skill to allow the analysis controller to perform such a function. Yamamoto et al. teach that the analysis controller is linked via a communication network to the administrative controller (column 9, lines 18-30) that monitors maintenance related data (column 9, lines 5-18; column 13, lines 4-12). It is also well known that warranties are associated with product maintenance and sale (purchased using the bid, auction and sale system of Barzilai et al.-column 1, lines 48-67). Further, site or local management has been known to possess more detailed knowledge of local events and conditions over remote supervisors. Therefore, by implementing the analysis controller of Yamamoto et al. with such a collating functionality, would lead to improved efficiency and decision-making regarding project time, cost and performance.

7. Claims 25, 26, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamota et al., U.S. Patent No. 6,141,629 and Barzilai et al., U.S. Patent No. 6,012,045 as applied to claims 21 and 31 above, and further in view of Huang et al., U.S. Patent No. 5,953,707.

As per claims 25, 26, 36 and 37, Yamamoto et al. teach analysis, local and administrative controllers that communicate using wireless and global communication networks and where the administrative controller is configured to manage and control maintenance information (figure 12; column 9, lines 5-35). Barzilai et al. teach an internet site for obtaining warranty information. In particular, Barzilai et al. use the internet to automatically provide users with suppliers and manufacturers for products and services and identifies the company who will fulfill and correct any warranty problem and its location (column/line 8/49-9/35). While Huang et al. teach report generation based on a predefined set of criteria (column 36, lines 59-63) and where data is compared to a standard (column 36, lines 63-64). Therefore, it would have been obvious for one of ordinary skill in the art to combine the teachings of Yamamoto et al., Barzilai et al. and Huang et al. Building and construction projects are highly coordinated, highly time dependent activities. If a step or task in the construction process is running behind schedule all subsequent tasks will also fall behind



resulting in costly delays affecting not only the consumer but also the construction company regarding future contracts. Equipment failure is a common source of delays. Yamamoto et al. look avoid such an obstacle by continuously monitoring equipment operational data and by distributing this data throughout the company via a global network. A corporate website on the internet at the managing computer, where the data is ultimately stored, would provide an obvious focal point for systematic (column 13, lines 7-11) and non-systematic queries regarding the status of capital equipment worldwide. One such non-systematic query would be a consumer or project owner checking on the status of a project or in the event of machine failure who should be contacted. Also by printing out a report, a consumer can then relay to others or present his or her findings at a meeting or conference.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (703) 308-8057. The examiner can normally be reached on Monday-Friday from 8:30 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell, can be reached at (703) 305-9768.

Any response to this action should be mailed to"

Commissioner of Patents and Trademarks

c/o Technology Center 2700

Washington, D.C. 20231 or faxed to:

(703) 308-9051 (for formal communications intended for entry)

or:

(703) 308-5397 (for informal or draft communications, please label

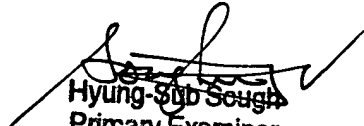
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application  
should be directed to the Group receptionist whose telephone number is (703)  
305-3900.

Calvin Loyd Hewitt II

May 14, 2002

  
Hyung-Soo Seugh  
Primary Examiner